

Remarks

The Applicants note with appreciation the allowance of Claims 20 and 23 – 29. The Applicants also note with appreciation the withdrawal of the previous rejection.

The Applicants acknowledge the new rejection of Claims 30 and 36 – 37 over the hypothetical combination of the newly cited Howe reference in combination with Little and Tajima.

The Applicants note with appreciation the Examiner's detailed comments concerning the hypothetical application and subsequent combination of the three references to Claims 30 and 36 – 37. The Applicants, nonetheless, respectfully submit that all three of the rejected claims are patentable over all three references, whether taken individually or collectively, for the reasons set forth below.

In an effort to further clarify the differences of Claims 30 and 36 – 37 over Tajima, Little and Howe, the Applicants have amended Claim 30 to recite that the permanent magnets are spaced apart from each other and point with the same pole towards the reservoir and each of the permanent magnets has an adjustable spacing relative to the reservoir. Support may be found in the Applicants' Specification on page 9 in the first paragraph. For this reason, among others noted below, the Applicants respectfully submit that Claims 30 and 36 – 37 are not obvious over Tajima, Little and Howe.

Claim 30 recites the particular feature defining a spacing of the two permanent magnets. The function of this feature is the provision of a drive device for repeatedly (multiply) moving the carrier material in the reservoir. Movement of the magnetic particles through the reservoir of the micro-dosing device is obtained by the changing action of the two permanent magnets. Each of the permanent magnets has an adjustable spacing relative to the reservoir. Both magnets point with the same pole towards the reservoir. The magnetic particles are attracted either by the first magnet or by

the second magnet. The particles can be moved through the microdosing device by changing the spacing of the magnets relative to the reservoir.

In sharp contrast to the subject matter of Claim 30, the magnetic separation apparatus of Howe creates a focused magnetic field attracting all magnetic particles. Depending on the axial position of the vessel 6 relative to the focused magnetic field, the magnetic particles are collected as a ring at a wall of the vessel (Fig. 2A) or at the bottom (Fig. 2B). It is clear that this magnetic separation principle is completely different from Claim 30. With the conventional magnetic separation apparatus, the distance of the permanent magnet (there is only one permanent magnet) is not changed relative to the vessel. The only movement proposed by Howe is the axial movement of the vessel, which does not yield an amended spacing relative to the permanent magnet, but rather a changed level of the magnetic field focus within the vessel.

Thus, the combination of Tajima and Howe would not make any sense. Howe necessarily requires a closed bottom of the vessel (Fig. 3B). If the vessel had an opening on the bottom side, the magnetic particles could not be collected.

The combined consideration of all three references as set forth in the rejection would not lead to the claimed invention. First, the combination does not provide any teaching or suggestion with regard to the spacing of the permanent magnets as defined in Claim 30. Furthermore, with the magnetic device of Howe, a repeated movement of magnetic particles could not be introduced into the technique of Tajima. This is clear because the poles of the permanent magnet used by Howe are adjusted such that opposite poles are arranged on opposite sides of the vessel (Figs. 4A, 4B).

Said differently, the Applicants respectfully submit that, even if one of ordinary skill in the art were to hypothetically combine Howe with Tajima and Little, the resulting structure would still fail to teach or suggest the subject matter of Claims 30 and 36 – 37. This is because Howe discloses

one permanent magnet and does not disclose, teach or suggest that each permanent magnet has an adjustable spacing relative to the reservoir. Neither of Figs. 4A and 4B or the text associated with the description of those figures teaches or suggests such adjustability. In fact, the structure of Howe makes this evident by virtue of the fact that the poles of the permanent magnet of Howe are adjusted such that opposite poles are arranged on opposite sides of the vessel as shown in Figs. 4A and 4B. Thus, the Applicants respectfully submit that, even if one of ordinary skill in the art were to hypothetically combine the structure of Howe with the primary and secondary references, the resulting structure would still fail to teach or suggest the Applicants' claimed permanent magnets being spaced apart from each other with the same pole towards the reservoir and each of the permanent magnets has an adjustable spacing relative to the reservoir. Withdrawal of the rejection is respectfully requested.

In light of the foregoing, the Applicants respectfully submit that the entire Application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



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